

Chapter 38.
National Court Act 1975.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 38.

National Court Act 1975.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

National Court Act 1975,

Being an Act to implement Subdivision VI.5.D (*the National Court of Justice*) and Section 168 (*qualifications*) of the Constitution to provide for—

- (a) the qualifications for appointment as a Judge of the National Court; and
- (b) the practice and procedure of the National Court; and
- (c) other related matters.

PART I. – QUALIFICATIONS FOR APPOINTMENT AS A JUDGE OF THE NATIONAL COURT.

1. QUALIFICATIONS TO BE HELD BY A CITIZEN.

Subject to Section 4 of the *Organic Law on the Terms and Conditions of Employment of Judges*, a citizen is qualified for appointment as a Judge if—

- (a) he—
 - (i) is a graduate in law of at least six years standing of a university in Papua New Guinea or of a university of another country the degree in law of which is recognized by the Judicial and Legal Services Commission as a sufficient academic qualification for appointment; and
 - (ii) has practised as a lawyer for not less than four years; or
- (b) he—
 - (i) is a graduate in law of a university in Papua New Guinea or of a university of another country the degree in law of which is recognized by the Judicial and Legal Services Commission as a sufficient academic qualification for appointment; and

- (ii) has not less than five years' experience in Papua New Guinea as a Magistrate Grade IV. or a Magistrate Grade III., or partly as a Magistrate Grade IV. and partly as a Magistrate Grade III.

2. **QUALIFICATIONS TO BE HELD BY A NON-CITIZEN.**

Subject to Section 4 of the *Organic Law on the Terms and Conditions of Employment of Judges*, a non-citizen is qualified for appointment as a Judge if–

- (a) he is or has been a lawyer who has practised as a lawyer–
 - (i) in Papua New Guinea; or
 - (ii) in a country with a legal system that, in the opinion of the Judicial and Legal Services Commission, is substantially similar to the legal system of Papua New Guinea; or
 - (iii) in Papua New Guinea and in a country referred to in Subparagraph (ii),
for a total period of not less than five years; or
- (b) he was a Judge or an acting Judge of the pre-Independence Supreme Court; or
- (c) he is or has been a Judge of a court of unlimited jurisdiction in a country with a legal system that, in the opinion of the Judicial and Legal Services Commission, is substantially similar to the legal system of Papua New Guinea.

PART II.¹ – ADMINISTRATION.

3. PRINCIPAL SEAT OF THE NATIONAL COURT.

²The Chief Justice, after consultation with the other Judges, shall determine the Principal Seat of the National Court.

4. SITTINGS AND REGISTRIES OF THE NATIONAL COURT.

³The Chief Justice, after consultation with the other Judges, shall determine—

- (a) the place and frequency of sittings of the National Court; and
- (b) the location and number of registries of the Court.

5. SEAL OF THE COURT.

⁴(1) The National Court shall have a seal of the Court for the sealing of all writs and other instruments and documents issued out of the Court and requiring to be sealed.

(2) In addition to the seal provided for by Subsection (1), the Court shall, for the purposes of authentication of Court documents, have a seal or stamp with which any summons, office copy, certificate, report or other document requiring authentication may be sealed or stamped.

6. ANNUAL REPORT.

⁵The Chief Justice shall, during the month of August in each year, forward to the Head of State, for presentation to the Parliament a report by the Judges under Section 187 (*reports by Judges*) of the Constitution.

7. REGISTRAR, DEPUTY REGISTRAR, ASSOCIATES AND OFFICERS.

⁶(1) The Judicial and Legal Services Commission may appoint persons to the following offices of the Court:—

- (a) Registrar;
- (b) Deputy Registrar;
- (c) Associates to the Judges of the Court;
- (d) such other offices as the Judicial and Legal Services Commission considers necessary for the proper administration of justice by the Court.

(2) A person appointed under Subsection (1) is an officer of the Court and is not, while acting as such, subject to direction or control by any person other than the Chief Justice and the other Judges.

¹ Part II repealed and replaced by the *National Court (Amendment) Act 1987* (No. 9 of 1987), s1.

² Section 3 repealed and replaced by the *National Court (Amendment) Act 1987* (No. 9 of 1987), s1.

³ Section 4 repealed and replaced by the *National Court (Amendment) Act 1987* (No. 9 of 1987), s1.

⁴ Section 5 repealed and replaced by the *National Court (Amendment) Act 1987* (No. 9 of 1987), s1.

⁵ Section 6 repealed and replaced by the *National Court (Amendment) Act 1987* (No. 9 of 1987), s1.

⁶ Section 7 repealed and replaced by the *National Court (Amendment) Act 1987* (No. 9 of 1987), s1.

(3) The terms and conditions of service of a person appointed under Subsection (1) shall be determined by the Judicial and Legal Services Commission, after consultation with the Departmental Head of the Department responsible for personnel management matters within the National Public Service.

PART III.⁷ – MISCELLANEOUS.

8. RULES OF COURT OF THE NATIONAL COURT.

⁸Subject to Section 184 (*rules of court*) of the *Constitution*, the Judges of the National Court may make Rules of Court of the National Court.

9. PRACTICE AND PROCEDURE.

⁹The practice and procedure in and relation to a matter in the National Court shall be the practice and procedure provided by law or the Rules of Court in relation to matters of that kind except as directed by the National Court at any stage of the matter.

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⁷ Part III repealed and replaced by the *National Court (Amendment) Act 1987* (No. 9 of 1987), s2.

⁸ Section 8 repealed and replaced by the *National Court (Amendment) Act 1987* (No. 9 of 1987), s2.

⁹ Section 9 repealed and replaced by the *National Court (Amendment) Act 1987* (No. 9 of 1987), s2.